

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN DARNELL RAGLAND, #191565,

Plaintiff,

CIVIL ACTION NO. 08-15253

v.

DISTRICT JUDGE AVERN COHN

M. RABY, KEITH BERBICK,
KEVIN KERR, NICOLAS SMISSICK,
DANIEL ROSE, ANDREW BELANGER,
BRIAN BOLASH, and ANTHONY
CARIGNAN,

Defendants.

/

**OPINION AND ORDER REGARDING PLAINTIFF'S MOTION
FOR LEAVE TO FILE AMENDED COMPLAINT (DKT. NO. 95)**

Plaintiff, an inmate in the custody of the Michigan Department of Corrections, has filed this action alleging claims cognizable under 42 U.S.C. § 1983. Presently before the court is Plaintiff's fifth attempt to amend his complaint. In this latest attempt, Plaintiff seeks leave to add two more defendants. In particular, Plaintiff claims that after reviewing Defendants' summary judgment motion, he "was made aware of another plain clothed officer that was involved with the assault on Plaintiff and should not be allowed to escape liability." Plaintiff's motion does not identify this officer by name but seeks leave to add the officer as a defendant as well as the municipality for which the officer worked.

Under Fed. R. Civ. P. 15(a)(2), since more than 21 days has elapsed from the time he was served with a responsive pleading, Plaintiff must obtain the court's leave to amend his complaint (or the opposing party's written consent). "The court should freely give leave

when justice so requires." *Id.* However, leave to amend may always be denied if the proposed amendment is futile. *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Due to the fact that Plaintiff failed to submit a copy of his proposed amended complaint with his motion in accordance with E.D. Mich. L. R. 15.1, the Court cannot make a determination on the appropriateness of Plaintiff's motion for leave to amend. Accordingly, Plaintiff **IS ORDERED** to submit a proposed amended complaint on or before **July 23, 2010**, so that the Court may determine whether the proposed amendment(s) should be allowed. Plaintiff's proposed amended complaint shall be clearly marked to delineate where changes have been proposed to be made from the previously amended complaint.

Accordingly, **IT IS ORDERED** that Plaintiff shall submit a pleading titled "Proposed Amended Complaint" on or before **July 23, 2010**, with all proposed changes clearly delineated, or this motion will be deemed dismissed.

s/Mark A. Randon
MARK A. RANDON
UNITED STATES MAGISTRATE JUDGE

Dated: June 30, 2010

Certificate of Service

I hereby certify that a copy of the foregoing document was served on the parties of record on this date, June 30, 2010, by electronic and/or first class U.S. mail.

s/Melody R. Miles
Case Manager to Magistrate Judge Mark A. Randon